

## DISTRICT OF NEVADA

Case No.: 2:20-cv-00873-APG-DJA

## Order

## Defendants

The only remaining defendant is Vincent Ochoa, who has not appeared in this action. On September 23, 2020, the clerk's office sent Khan a notice of intent to dismiss Ochoa for failure to file proof of service. ECF No. 39. Khan responded that a process server delivered the summons and complaint to "JEA, Deniece Lopez." ECF No. 41 at 1. Based on this response, it does not appear that service on Ochoa was properly accomplished under Federal Rule of Civil Procedure 4(e). Service was not made on Ochoa personally, it was not left at his dwelling or usual place of abode with a person of suitable age and discretion who resides there, and there is no evidence that Lopez is an agent authorized by appointment or law to receive process on Ochoa's behalf. *See* Fed. R. Civ. P. 4(e)(2). Nor is there evidence that Ochoa was properly served under Nevada law. *See* Fed. R. Civ. P. 4(e)(1); Nev. R. Civ. P. 4.2(a), (d). I therefore

1 ordered Khan to show cause why his claims against Ochoa should not be dismissed for lack of  
2 timely and proper service. ECF No. 97.

3 Khan responded that due to Covid 19, he hired a process server who was unable to serve  
4 Ochoa where he normally conducts his business, so the process server left the complaint with the  
5 court clerk. ECF No. 98 at 53. While the pandemic has made personal service more difficult, it  
6 does not excuse the service requirement. Consequently, I dismiss Khan's claims against Ochoa  
7 without prejudice for lack of timely and properly service.

8 I THEREFORE ORDER that plaintiff Marshall Abbas Khan's claims against defendant  
9 Vincent Ochoa are dismissed without prejudice for lack of timely and proper service. The clerk  
10 of court is instructed to close this case.

11 DATED this 3rd day of May, 2021.



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ANDREW P. GORDON  
UNITED STATES DISTRICT JUDGE